

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL No. 1456
)
) Civil Action: 01-CV-12257-PBS
)
) Judge Patti B. Saris
)

THIS DOCUMENT RELATES TO
01-CV-12257-PBS and 01-CV-339

BMS CLASS 1 TRIAL

**DECLARATION OF LYNDON M. TRETTER
IN RESPONSE TO CLASS PLAINTIFFS' MOTION
TO AMEND PRETRIAL ORDER**

I, Lyndon M. Tretter, do hereby declare that:

1. I am a partner in the law firm of Hogan & Hartson LLP, counsel for defendants Bristol-Myers Squibb Company and Oncology Therapeutics Network Corporation (together, "BMS") in this action and I will be their co-lead counsel at trial. I submit this Declaration in response to Plaintiffs' Motion to Amend The Court's Pretrial Order to move the beginning of the trial of the Class 1 case against BMS from July 23, 2007 to July 30, 2007.

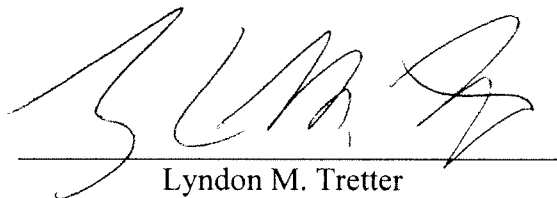
2. I have had long-standing arrangements with my family, my brother's family and my parents to celebrate my parents' 49th wedding anniversary on a vacation cruise in Alaska. I am scheduled to travel to Vancouver, Canada on Sunday, August 12, 2007 to meet the ship.

3. Plaintiffs give no indication in their motion of how many witnesses they intend to call in their case-in-chief or rebuttal, but if they take a week, it is doubtful that the trial would finish by Friday, August 10 *even if* the Court and jury sat every day from July 30th until then. Because in any trial, there will inevitably be days where the Court, counsel or jurors have conflicts requiring a break in the schedule, putting off the trial until July 30th will almost certainly result in my having to abandon my client or this once-in-a-lifetime trip.

4. I respectfully submit that a better alternative would be (a) for Plaintiffs to start their case a few days earlier, i.e. during the week of July 16, and have a brief hiatus to accommodate Plaintiffs' counsel's schedule, or (b) to start the trial in September so as not to interfere with most people's mid-to-late August vacation plans.

Executed on May 9, 2007

I declare under penalty of perjury that the foregoing is true and correct.


Lyndon M. Tretter

CERTIFICATE OF SERVICE BY LEXIS-NEXIS FILE & SERVE

I, Lyndon M. Tretter, hereby certify that I am one of Bristol-Myers Squibb Co. and Oncology Therapeutics Network Corp.'s attorneys and that, on May 9, 2007, I caused a copy of **THE DECLARATION OF LYNDON M. TRETTER IN RESPONSE TO CLASS PLAINTIFFS' MOTION TO AMEND PRETRIAL ORDER** to be served on all counsel of record by electronic service pursuant to Paragraph 11 of CMO No. 2 by sending a copy to Lexis-Nexis File & Serve for posting and notification to all parties.

/s/ Lyndon M. Tretter

Lyndon M. Tretter